

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROY HORTON,

Plaintiff,

v. // CIVIL ACTION NO. 1:09CV114
(Judge Keeley)

LT. WESLEY DOBBS, Marion
Co. Sheriff's Dept.;
OFFICER BENSON, Transportation Officer,
Marion Co. Sheriff's Dept.;
OFFICER B. KIMBALL, Booking Officer,
North Central Regional Jail;
GEORGE TRENT, Administrator, North Central
Regional Jail;
JOHN L. KING, II, Chief of Operations,
West Virginia Regional Jail Authority;

Defendants.

ORDER ADOPTING FIRST REPORT AND RECOMMENDATION (DKT. 218),
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (DKT. 176),
ADOPTING SECOND REPORT AND RECOMMENDATION (DKT. 233),
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (DKT. 181),
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (DKT. 201)

The plaintiff, Roy Horton ("Horton"), brought this case pursuant to 42 U.S.C. § 1983. In two separate Reports and Recommendations, United States Magistrate Judge John S. Kaull recommended that the Court grant the motions for summary judgment filed by the various defendants. For the reasons that follow, the Court adopts the recommendations of the magistrate judge and dismisses this action with prejudice as to all defendants.

I. FIRST R&R

On June 3, 2011, Magistrate Judge Kaull issued a Report and Recommendation ("the first R&R"), in which he recommended that the

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Court grant the motion for summary judgment filed by defendants Officer B. Kimball ("Kimball"), George Trent ("Trent"), and John L. King, II ("King"). The first R&R directed any party disagreeing with the recommendations to file "written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection" within fourteen days of receiving service of the R&R. (First R&R at 54). On June 17, the pro se plaintiff, Roy Horton ("Horton"), filed his objections, which, in total, stated as follows: "Now Comes, Plaintiff, Roy Horton, pro-se, and make Objections to the Magistrates Report and Recommendation in its entirety." (Dkt. 221 at 1).

Such generalized, unsupported objections fail to follow the directions of the magistrate judge in the first R&R, which ordered Horton to direct the Court to any alleged error or any facts supporting his disagreement with the R&R. See 28 U.S.C. § 636(b). For this reason, the Court need not conduct a de novo review of the first R&R. "The district court is required to review de novo only those portions of the report to which specific and timely objections have been made." Roach v. Gates, No. 10-1569, 2011 WL 915958, *1 (4th Cir. Mar. 17, 2011)(unpublished)(citing Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982)).

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Nevertheless, the Court has reviewed the thorough analysis of the magistrate judge in the first R&R and finds no error in its conclusions that the allegations against defendants Kimball, Trent and King all related to actions taken in their respective official capacities, and that Horton failed to establish any material fact in dispute that would overcome the defendants' qualified immunity from suit under § 1983. Thus, the Court **ADOPTS** the first R&R in its entirety (dkt. 218), and **GRANTS** the motion for summary judgment filed by Kimball, Trent and King (dkt. 176).

II. SECOND R&R

On June 11, 2011, Magistrate Judge Kaul issued a Report and Recommendation ("the second R&R"), recommending that the Court grant the motion for summary judgment filed by the remaining defendants, Wesley Dobbs ("Dobbs") and Claude Benson ("Benson"), and deny Horton's cross-motion for summary judgment. The second R&R also advised Horton that he needed to file specific, written objections, if any, within fourteen days of receiving the R&R. Although Horton received service of the second R&R on July 12, 2011, to date he has filed no objections. The time for doing so has expired. After careful review, the Court finds no error in the magistrate judge's conclusions, and, accordingly, **ADOPTS** the second R&R (dkt. 223) in its entirety, **GRANTS** the motion to dismiss filed

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by Benson and Dobbs (dkt. 181), and **DENIES** Horton's motion for summary judgment (dkt. 201).

CONCLUSION

For the reasons discussed, the Court **DISMISSES** this action in its entirety **WITH PREJUDICE**, and directs the Clerk to prepare a separate judgment order, and to transmit copies of both orders to counsel of record and to the pro se plaintiff via certified mail, return receipt requested.

DATED: August 15, 2011.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE